

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KENNETH BAKER, #120870, §
§
Plaintiff, §
§
v. § Case No. 6:24-cv-106-JDK-KNM
§
SHERIFF MAXEY CERLIANO, et al., §
§
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff, an inmate of the Gregg County Jail proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 about alleged violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 25, 2024, the Magistrate Judge ordered service upon and a response from several Defendants in this case. Docket No. 5. On that same day, the Magistrate Judge submitted a Report and Recommendation that Plaintiff's claims against Defendant Cerliano be dismissed for failure to state a claim pursuant to 28 U.S.C. §§ 1915A(b) and 1915(e)(2). Docket No. 7. A copy of this Report was mailed to Plaintiff, who did not file written objections.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 7) as the findings of this Court. It is therefore **ORDERED** that Defendant Cerliano is dismissed from this suit for Plaintiff's failure to state a claim against him pursuant to 28 U.S.C. §§ 1915A(b) and 1915(e)(2). The Clerk shall terminate Cerliano as a Defendant on this docket.

So **ORDERED** and **SIGNED** this 1st day of May, 2024.



JEREMY D. KERNAL
UNITED STATES DISTRICT JUDGE